

UNITED STATES PATENT AND TRADEMARK OFFICE

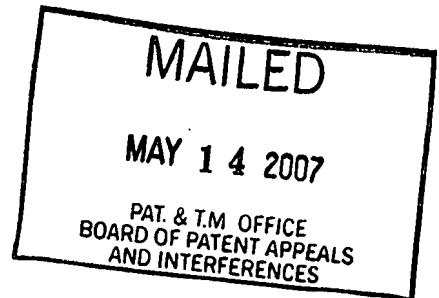
---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

---

Ex parte THOMAS F. BERGERT

---



Application 09/473,136

---

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

---

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on April 02, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

The Examiner's Answer mailed March 9, 2005, does not fully comply with the requirements of 37 CFR § 41.37. The following headings need to be included in accordance with MPEP § 1207.02:

***“Summary of Claimed Subject Matter”*** - A statement of whether the examiner agrees or disagrees with the summary of claimed subject matter contained in the brief and an explanation of any disagreement.

***“Grounds of Rejections to be Reviewed on Appeal”*** - A statement of whether the examiner agrees or disagrees with the statement of the grounds of rejection to be reviewed set forth in the brief and an explanation of any disagreement. Form paragraphs 12.154 and 12.154.01 or 12.154.02 may be used. In addition, the examiner must include the following subheadings (if appropriate):

***“Claims Appendix”*** - A statement of whether the copy of the appealed claims contained in the appendix to the brief is correct and, if not, a correct copy of any incorrect claim.

***“Evidence Relied Upon”*** - A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

***“Related Proceedings Appendix”*** - Copies of any decisions rendered by a court or the Board in any proceeding identified by the examiner in the “Related Appeals and Interference” section of the answer.

A revised Examiner’s Answer that is in full compliance with 37 CFR

§ 41.37 is required.

Application 09/473,136

Accordingly, it is ORDERED that the application is return to the Examiner to:

- 1) submit a revised Examiner's Answer in accordance with the new rules effective September 13, 2004; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571)272-9797

PJN:pgc

cc: Thomas F. Bergert  
4436 N 17<sup>th</sup> Street  
Arlington, VA 22207